

Message Text

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C O N F I D E N T I A L FRANKFURT 0737

FOR: FOI DIRECTOR ENNIS; L/M FOR MALMBORG; EUR/CE
FOR VINE

E.O. 11652: GDS

TAGS: AINF, OGEN

SUBJECT: FOIA REQUEST: JAMES RYAN, CASE NO. 5-C-619

REF: ENNIS TRANSMITTAL SLIP, 12/29/75, 75 FRANKFURT A-188

1. CONGEN HAS RECEIVED TRANSMITTAL SLIP AND ATTACHED MATERIALS FOR FOIA REQUESTOR JAMES RYAN (REF A). ALTHOUGH RYAN HAS NOT BEEN IN CONTACT WITH US ON HIS REQUEST SINCE LAST SEPTEMBER WE NEVERTHELESS WANT TO COMPLY WITH THE LETTER AND THE SPIRIT OF THE FOIA AS WELL AS HIS AND ANY OTHER INQUIRERS' DESIRES. THEREFORE ON REVIEW OF A) FREEDOM OF INFORMATION ACT, B) THE DEPARTMENT'S REGULATIONS AND C) THE MATERIAL ENCLOSED WITH REF A, WE ARE MAKING AVAILABLE TO MR. RYAN UPON PAYMENT OF US\$30 IN ADVANCE OF HI SEEING THE MATERIAL PLUS 10 CENTS PER PAGE FOR DOCUMENTS HE WANTS TO TAKE AWAY, SOME 40 PAGES OF THE MATERIAL WHICH IS RELEVANT TO HIS REQUEST. FOR REASONS OUTLINED IN PARA TWO BELOW WE HAVE REMOVED SOME OF THE MATERIAL WHICH WAS INCLUDED IN THE DEPARTMENT'S PACKAGE. FOR REASONS OUTLINED IN PARA THREE WE HAVE EXCISED FROM THE MATERIAL TO BE SHOWN AND GIVEN TO MR. RYAN THE NAMES OF DRAFTING, CLEARING AND APPROVING
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OFFICERS ON COMMUNICATIONS LEAVING ONLY THE NAME
OF THE RESPONSIBLE SENIOR OFFICER WHICH APPEARS AT THE

END OF EACH COMMUNICATION.

A) RYAN'S SPECIFIC REQUEST IS "TO SEE WHO YOUR OFFICE GAVE INFORMATION TO, BE IT IN THE UNITED STATES, OR ANY OTHER PLACE", RELATING TO ALLEGATIONS THAT HE WAS UNDER ARREST FOR FRAUDULENT ACTIVITIES AND THAT WARRANTS FOR HIS ARREST HAD BEEN ISSUED IN GERMANY AND EGYPT. HE HAS NOT ASKED FOR ALL MATERIAL USG HOLDS ON HIM, CERTAINLY NOT FOR COPIES OF HIS OWN LETTERS TO USG OR LETTERS THAT HE GAVE US. NOR HAS HE ASKED FOR INFORMATION ON SUCH TOTALLY UNRELATED MATTERS AS A POSSIBLE AIRPLANE SALE IN LATIN AMERICA IN 1951 OR REVOCATION OF HIS GERMAN BANKING LICENSE IN 1973. WE HAVE THEREFORE REMOVED A FEW DOCUMENTS NOT RELEVANT TO HIS REQUEST.

B) MATERIAL FOR RYAN NOT ONLY INCLUDES MATERIALS NOT GERMANE TO HIS REQUEST, BUT ALSO NUMEROUS DUPLICATE COPIES. TO CHARGE HIM FOR DUPLICATE COPIES EVEN AT 10 CENTS A PAGE WOULD SEEM FRIVOLOUS.

C) MOST IMPORTANTLY, MATERIAL FOR RYAN INCLUDES COPY OF FRANKFURT AIRGRAM (REF B) TRANSMITTING RYAN'S REQUEST AND OUR HOLDINGS ON HIM, IN WHICH REFERENCE IS MADE TO FBI RECORD OF WHICH WE LEARNED FROM A GERMAN LAW-ENFORCEMENT AGENCY. ALSO INCLUDED ARE BONN TELEGRAMS, OF WHICH WE WERE NOT PREVIOUSLY AWARE, REFERRING TO GERMAN BANK SUPERVISORY AGENCY'S INTEREST IN 1973 INFORMATION ON RYAN. WE ARE PARTICULARLY TROUBLED BY THE SUGGESTION TO GIVE RYAN MATERIAL THAT WOULD COMPROMISE AND JEOPARDIZE COOPERATION BETWEEN U.S. AND GERMAN (AND BY EXTENSION OTHER FOREIGN) SUPERVISORY AND LAW ENFORCEMENT AGENCIES. WE REGARD THESE FOREIGN AGENCIES AS CONFIDENTIAL SOURCES WITHIN THE MEANING OF THE FREEDOM OF INFORMATION ACT. WE UNDERSTAND THIS ISSUE WAS LITIGATED BEFORE JUDGE WARREN FERGUSON IN U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA (CHURCH OF SCIENTOLOGY VS. USG/DEA), AND THAT ON JANUARY 13, 1976, JUDGE
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FERGUSON REFUSED TO COMPEL DISCLOSURE OF INFORMATION MADE AVAILABLE BY A FOREIGN POLICE AGENCY. MOREOVER, REF A DEALS WITH THE PROCEDURE TO BE FOLLOWED IN RESPONSE TO MR. RYAN'S REQUEST UNDER THE FREEDOM OF INFORMATION ACT AND NOT SUBSTANCE. WE ARE THEREFORE NOT MAKING THIS AIRGRAM AVAILABLE.

3. WE KNOW OF NOTHING IN THE FREEDOM OF INFORMATION ACT OR IN THE REGULATIONS WHICH MODIFIES WHAT WE UNDERSTAND TO BE THE SECRETARY'S AND THE DEPARTMENT'S

FIRM TOP-LEVEL POSITION THAT SENIOR OFFICERS IN THE DEPARTMENT AND CHIEFS OF MISSION OR PRINCIPAL OFFICERS IN THE FIELD ARE ACCOUNTABLE AND THAT STAFF OR ACTION OFFICERS PARTICULARLY MORE JUNIOR OFFICERS MUST BE AFFORDED THE PROTECTION AND ENVIRONMENT NECESSARY IN WHICH TO EXERCISE JUDGMENT, INITIATIVE AND GIVE UNINHIBITED ADVICE. THEY SHOULD NOT BE EXPOSED TO POSSIBLE PERSONAL CONSEQUENCES FOR GIVING SUCH ADVICE. MOREOVER, IN THE RULING REFERRED TO ABOVE WE UNDERSTAND JUDGE FERGUSON ALSO UPHELD DEA'S PRACTICE OF EXCISING INDICATION OF IDENTITIES OF PERSONS INVOLVED IN MATTERS AS REFLECTED IN FILES. WE HAVE, THEREFORE, DELETED THE NAMES OF DRAFTING AND CLEARING OFFICERS ON ANY SUCH COMMUNICATIONS LEAVING ONLY THE NAMES OF THE SENIOR OFFICERS WHOSE NAME APPEARS AT THE END OF EACH COMMUNICATION.LEHMANN

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